

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2021-186-S - ORDER NO. 2021-449  
JUNE 30, 2021

IN RE: Application of Condor Environmental,	) ORDER
Incorporated Requesting Approval of a	) CONDITIONALLY
Reduction in Rates Charged to the Country	) APPROVING RATE
Place Homeowners' Association and the	) REDUCTION NUNC PRO
Fairview Chase Homeowners' Association	) TUNC

This matter comes before the Public Service Commission of South Carolina ("the Commission") on the request of Condor Environmental, Inc. ("Condor" or "the Company") for approval of a rate reduction, *nunc pro tunc*, for the provision of sewer service to Country Place and Fairview Chase, both subdivisions being located in Greenville County, South Carolina.

According to Condor, its obligations in Country Place Subdivision ("Country Place") are to inspect and maintain the sewer system, pump station, and to pump septic tanks when required. The Commission approved a subdivision-wide rate of \$5,070 per year, or \$422 per month, by approving the Pump Station and Force Main Agreements of Condor in Docket No. 2012-315-S by Commission Order No. 2012-824. Country Place was expected to have up to One Hundred Thirty-two (132) two-bedroom condominium units. However, only seven units were built. As of July 1, 2012, Condor began charging the Country Place Homeowners Association \$3,600 yearly, or \$300 per month. Condor states that it charged this reduced rate to reflect the lower than expected occupancy of the

subdivision. The rate was changed without Commission approval. Condor is now requesting approval by the Commission of this July 1, 2012 rate reduction *nunc pro tunc*.

With regard to Fairview Chase Subdivision (“Fairview Chase”), Condor asserts that its obligations are to inspect and maintain the sewer system, a pump station, and a force main serving the subdivision. The Commission approved a subdivision-wide rate of \$12,374 per year, or \$825 per month, for Fairview Chase Subdivision when Commission approved the negotiated Pump Station and Force Main Agreements of Condor and the Fairview Chase homeowners’ association in Docket No. 2012-315-S by Commission Order No. 2012-824. Fairview Chase was expected to have up to ninety-nine (99) homes and thirty-four (34) townhomes, which were two-bedroom condominium units. However, only nine homes were built. As of June 1, 2012, Condor began charging the Fairview Chase Homeowners Association \$3,600 yearly or \$300 per month. The rate for Fairview Chase was changed by Condor without Commission approval due to lower than expected occupancy of the subdivision. Condor is now before the Commission requesting approval of this July 1, 2012 rate reduction *nunc pro tunc*.

Further, Condor is requesting Commission approval of its Application for rate reduction for each subdivision without a hearing.

#### **APPLICABLE LAW**

S.C. Code Ann. Section 58-5-240 states in part:

“(B) After the schedule has been filed, the Commission shall, after notice to the public such as the Commission may prescribe, hold a public hearing concerning the lawfulness or reasonableness of the proposed changes.”

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“(G) Notwithstanding the provisions of this section, the Commission may allow rates or tariffs to be put into effect without a hearing upon order of the Commission when such rates or tariffs do not require a determination of the entire rate structure and overall rate of return, or when the rates or tariffs do not result in any rate increase to the public utility, or when the rates or tariffs are for experimental purposes.”

S. C. Code Ann. § 58-5-240 (2015).

### **DISCUSSION**

This case is a bit unusual, in that Condor is requesting that the Commission approve reductions in rates that were actually put into effect by the Company in 2012 without the required prior authorization of the Commission. Condor failed to request Commission approval of these rate reductions until the filing of the present Application on June 4, 2021.

Notice appears to be unnecessary, because the affected subdivisions have already received notice and been paying the proposed lower rates since 2012. Further, with regard to a formal Commission hearing, as Condor points out, approval of the requested rate reduction does not require determining the utility’s entire rate structure, operating margin, nor does this Application involve an approval of a resulting rate increase.

This rate reduction requested by Condor does not affect any of the Company’s customers, other than those homeowners residing in the Country Place and Fairview Chase Subdivisions, all of whom have enjoyed the benefit of this rate reduction since July 1, 2012. Accordingly, the case meets the statutory criteria for not having a hearing, in that South Carolina Code Ann. Section 58-5-240 (G) states that rates may be put into effect by Order of the Commission without a hearing when the entire rate structure and overall rate of

return do not need to be determined, and the tariffs do not result in a rate increase to the public utility.

### **FINDINGS OF FACT**

1. Commission Order No. 2012-824 set rates for both Country Place and Fairview Chase Subdivisions, located in Greenville County, South Carolina.

2. The Commission approved a subdivision-wide rate of \$5,070 per year, or \$422 per month, for Country Place Subdivision.

3. The Commission approved a subdivision-wide rate of \$12,374 per year, or \$825 per month, for Fairview Chase Subdivision.

4. In 2012, Condor reduced Country Place Subdivision's subdivision-wide rate to \$3,600 yearly or \$300 per month without prior approval by this Commission.

5. Further in 2012, Condor also reduced Fairview Chase Subdivision's rate to \$3,600 yearly or \$300 per month without prior approval of the Commission.

6. Condor is requesting approval of these rate reductions *nunc pro tunc*.

7. Condor is seeking approval of the rate reductions without a hearing.

8. No determination shall be made by the Commission of the entire rate structure, the overall rate of return, or both, for Condor in this matter.

### **CONCLUSIONS OF LAW**

1. Rate changes for wastewater providers are governed by S.C. Code Ann. Section 58-5-240.

2. Condor failed to request approval of the rate reductions for the Country Place and Fairview Chase Subdivisions as required by S.C. Code Ann. Section 58-5-240.

3. Condor now requests approval of the reductions *nunc pro tunc* under this Code Section.

4. S.C. Code Ann. Section 58-5-240(G) allows rates to be put into effect without hearing upon order of this Commission when such rates do not require a determination of the entire rate structure and overall rate of return.

5. At this time, no hearing needs be held in this matter since the Commission does not need to determine the entire rate structure, the overall rate of return, or both, for Condor in the case.

6. The rates as placed into effect by Condor should be approved under S.C. Code Ann. Section 58-5-240(G) conditionally.

7. In accordance with S.C. Code Ann. Section 58-5-320, notice of the rate reductions should be provided to the affected customers, and the customers should have the opportunity to file Letters of Protest with the Commission by September 1, 2021.

8. If Letters of Protest are received by the Commission, the Commission will reconsider the approval of the rates as stated herein as allowed by S.C. Code Section 58-5-320.

#### **ORDERING PARAGRAPHS**

1. The July 1, 2012 rate reductions proposed by Condor Environmental, Inc. are hereby granted *nunc pro tunc* conditionally as described below.

2. Condor shall provide additional notice of these rate reductions by this Order to the affected customers in the Country Place and Fairview Chase Subdivisions within ten (10) days of receipt of this Order.

3. The Notice shall describe the fact that the customers may file Letters of Protest with the Commission by September 1, 2021, with regard to these rates, and that receipt of Letters of Protest by the Commission will result in a reconsideration of the approval of these rate reductions by the Commission.

4. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



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Justin T. Williams, Chairman  
Public Service Commission of  
South Carolina